

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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J.B. PLUMBING AND HEATING OF VIRGINIA,
INC., and JERRY BUSH, JR., individually and on
behalf of all those similarly situated,

Docket No.: 21-cv-06386

Plaintiffs,

-against-

NOTICE OF REMOVAL

YELLOWSTONE CAPITAL, LLC, CAPITAL
ADVANCE SERVICES LLC, CAPORLY LLC,
DAVID GLASS, YITZHAK STERN, TSVI H. DAVIS,
and THE JOHN AND JANE DOE INVESTORS,

Defendants.

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PLEASE TAKE NOTICE THAT, pursuant to 28 U.S.C. §§ 1331, 1441, and 1446,
Defendants, YELLOWSTONE CAPITAL, LLC (“YSC”), CAPITAL ADVANCE SERVICES
LLC (“CAS”), and YITZHAK STERN (“Stern”), by and through the undersigned counsel, hereby
removes this action from the Supreme Court of the State of New York, County of New York, to
the United States District Court for the Southern District of New York. In support of this Notice
of Removal, Defendants state as follows:

STATEMENT OF RELEVANT FACTS

1. On or about July 9, 2021, Plaintiffs filed a Summons with unverified putative class
action Complaint (the “Complaint”) against Defendants, YSC, CAS, Caporly LLC, DAVID
GLASS (“Glass”), Stern, TSVI H. DAVIS (“Davis”), and THE JOHN AND JANE DOE
INVESTORS. The Complaint purported to allege violations of 18 U.S.C. § 1962 (RICO), 18
U.S.C. § 1962(d) (RICO Conspiracy), and fraud.

2. The Complaint has not been served on any of the Defendants as of the date of
removal and the docket does not reflect any affidavit of service.

3. The Summons and Complaint with the annexed exhibits are attached hereto as **Exhibit A**.

4. The Complete Docket setting forth all papers filed within is attached hereto as **Exhibit B**. The Summons, Complaint, and their exhibits are the only documents that have been filed in this matter.

REMOVAL IS TIMELY AND PROPER

5. 28 U.S.C. § 1446(b)(1) provides that the Notice of Removal is timely if served within thirty (30) days after receipt by the Defendant. As the action was only commenced on July 9, 2021, eighteen days ago, the Notice of Removal cannot be untimely. The removing defendants first received a copy of the Complaint on July 9, 2021, but have not actually been served the Summons and Complaint.

6. As of July 27, 2021, none of the defendants have been served the Summons and Complaint. Consequently, pursuant to 28 U.S.C. § 1446(b)(2), consent of the other defendants is not necessary for removal.

BASIS FOR REMOVAL – FEDERAL QUESTION

7. Pursuant to 28 U.S.C. § 1441, a defendant may remove any action over which the District Court would have original jurisdiction. Pursuant to 28 U.S.C. § 1331, this Court has original jurisdiction of all civil actions arising out of the laws of the United States.

8. This Complaint in this action purports to allege two claims arising out of the laws of the United States 18 U.S.C. §§ 1962. **Exhibit A**. RICO claims are creatures of federal statutory law, and present federal questions for which removal of the action from state court to District Court is proper. *Churchill Vill., L.L.C. v. GE*, 361 F.3d 566 (9th Cir. 2004).

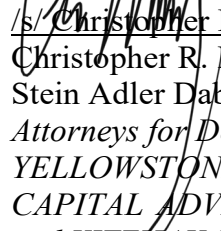
9. The Supreme Court of the State of New York, County of New York, is located within the Southern District of New York. Venue is proper because the action is being removed to the District Court of the United States for the district and division embracing the place where such action is pending under 28 U.S.C. § 1441(a).

10. Pursuant to 28 U.S.C. §1446(d), a copy of the Notice of Removal being filed contemporaneously with and served upon the Supreme Court of the State of New York, County of New York. A copy of this written notice is attached hereto as **Exhibit C**.

11. Pursuant to 28 U.S.C. §1446(d), a copy of the Notice of Removal is being served contemporaneously upon counsel for all other parties.

12. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure as required by 28 U.S.C. §1446(a).

Dated: New York, New York
July 27, 2021



/s/ Christopher R. Murray
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